

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|---------------------------|--------------------------------------------------------|-----------------------------------------------|--------------------------------------------|
| Investigator: Charis Jones | Team: Squad #3 | CCRB Case #: 202004370 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Sunday, 05/31/2020 , Sunday, 05/31/2020 12:01 AM | Location of Incident: Nostrand Avenue and Church Avenue, 72nd Precinct stationhouse | Precinct: 67 | 18 Mo. SOL 11/30/2021 | EO SOL 5/4/2022 | |
| Date/Time CV Reported Sun, 05/31/2020 1:30 PM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Wed, 06/17/2020 12:04 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------------|--------|--------|---------|
| 1. POM Yaroslav Kavka | 26807 | 968532 | 061 PCT |
| 2. An officer | | | |
| 3. SGT Mikhail Goncharov | 03579 | 949043 | 061 PCT |
| 4. Officers | | | |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. POM Bravo Zayas | 17717 | 953601 | C R C |
| 2. POM John Suarez | 29670 | 905132 | C R C |
| 3. POF Anya Prescott | 11729 | 955342 | C R C |
| 4. POF Christine Roman | 18956 | 959153 | 067 PCT |
| 5. POM Michael Berndt | 00513 | 961642 | C R C |
| 6. SGT Gerald Williams | 03877 | 924624 | C R C |
| 7. LT James Marcantonatos | 00000 | 902852 | C R C |
| 8. LSA Norman Peterson | 00000 | 924791 | C R C |
| 9. POM Benjamin Zonis | 14106 | 936022 | C R C |
| 10. POM Michael Counihan | 07607 | 944470 | C R C |
| 11. DC Joseph Gallucci | 00000 | 873596 | CT BUR |
| 12. LT Chris Catechis | 00000 | 918834 | C R C |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| A. Officers | Force: At Nostrand Avenue and Church Avenue in Brooklyn, officers used physical force against § 87(2)(b) | |
| B. Officers | Discourtesy: At Nostrand Avenue and Church Avenue in Brooklyn, officers spoke discourteously to § 87(2)(b) | |
| C. An officer | Force: At Nostrand Avenue and Church Avenue in Brooklyn, an officer struck § 87(2)(b) with a blunt instrument. | |
| D. POM Yaroslav Kavka | Abuse: At the 72nd Precinct stationhouse in Brooklyn, Police Officer Yaroslav Kavka did not obtain medical treatment for § 87(2)(b) | |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|------------|-----------------------------|
| § 87(2)(g), § 87(4-b) | | |

Case Summary

On May 31, 2020, Sergeant William Morrissey of the 67th Precinct called IAB and filed this complaint on behalf of § 87(2)(b) generating original log # 20-13833. The CCRB received the log on June 17, 2020. The case was assigned to former Investigator Magdalena Azmitia on June 18, 2020. The undersigned was reassigned the case on June 24, 2021.

On May 31, 2020, at approximately 12:01 a.m., § 87(2)(b) attended a protest against police brutality at Nostrand Avenue and Church Avenue in Brooklyn. While at the protest, unidentified officers allegedly threw § 87(2)(b) to the ground (**Allegation A: Force,** § 87(2)(g) § 87(2)(b)). While § 87(2)(b) was on the ground, unidentified officers allegedly said, “I got you, you fat bitch,” “Fuck you, you fat bitch,” “Fuck you bitch,” and, “Go fuck your mother” (**Allegation B: Discourtesy,** § 87(2)(g) § 87(2)(b)). An unidentified officer allegedly hit § 87(2)(b) in the back of the head with an object (**Allegation C: Force,** § 87(2)(g) § 87(2)(b)). § 87(2)(b) was subsequently handcuffed.

§ 87(2)(b) was transported to the 72nd Precinct stationhouse by PO Kavka. While at the 72nd Precinct stationhouse, PO Kavka allegedly failed to secure medical treatment for § 87(2)(b) (**Allegation D: Abuse of Authority,** § 87(2)(g) § 87(2)(b)).

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(b)

The investigation received positive results of body-worn camera (BWC) footage associated with this incident. Police Officer Bravo Zayas, Police Officer John Suarez, Police Officer Anya Prescott and Police Officer Christine Roman, all assigned to the Critical Response Command (CRC), made BWC recordings during that protest at that location, however, none of them captured § 87(2)(b)'s interaction with police (Board Review 02). § 87(2)(b) also provided the investigation with § 87(2)(b) video that captured a portion of this incident (Board Review 03).

Findings and Recommendations

Allegation (A) Force: At Nostrand Avenue and Church Avenue in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (B) Discourtesy: At Nostrand Avenue and Church Avenue in Brooklyn, officers spoke discourteously to § 87(2)(b)

Allegation (C) Force: At Nostrand Avenue and Church Avenue in Brooklyn, an officer struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) (Board Review 04, 05) testified that he accompanied his friend who he only identified § 87(2)(b) to a protest located at Church Avenue and Nostrand Avenue. Approximately 200 protestors were gathered on the street and the sidewalk. Approximately 50 police officers in riot gear were gathered near the opposite corner. Protestors threw objects at the officers, who did not react at first. One individual lit a firecracker and threw it at the officers. The officers, as a group, began to run towards at the crowd of protestors. Some protestors dispersed after the officers ran towards them, but ultimately returned to the protest. Other protesters were grabbed by officers and arrested. The

remaining officers began to pull back towards Rogers Avenue, and the crowd followed. § 87(2)(b) began walking in the same direction as the crowd, as he had to go that way to get home. Officers chased § 87(2)(b) until he was pushed from behind near the Church Avenue 49 bus and 44 Select bus stop. Approximately three officers got on top of § 87(2)(b) and one of them stated, "I got you, you fat bitch." § 87(2)(b) sustained scrapes to his right knee and elbow as a result of the fall. § 87(2)(b) noted that he had skidded on the ground and his pants fell down during the fall. § 87(2)(b) asked the officers to pull his pants up, to which one of the officers responded, "Fuck you, you fat bitch." While on the ground, § 87(2)(b) felt an unidentified object hit the back left side of his head, behind his left ear. § 87(2)(b) heard the officers say, "Fuck you bitch," and, "Go fuck your mother." § 87(2)(b) stated that based on their voices, he assumed the officers were male, however, he could not see their faces because they were wearing helmets face shields. § 87(2)(b) did not recall whether the officers' uniforms had any distinct patches or words on them. The officers handcuffed § 87(2)(b) and put him in a marked police van. Other officers who were not involved in tackling § 87(2)(b) transported him off scene. § 87(2)(b) was eventually taken to the 72nd Precinct where PO Kavka issued him a summons for disorderly conduct. § 87(2)(b) sustained cuts on his knees, bruises on his right leg and elbow, shoulder pain, and swelling on the back of his head.

§ 87(2)(b) sought medical attention at § 87(2)(b) later in the day on May 31, 2020. According to his medical records, § 87(2)(b) was diagnosed with a fractured wrist and informed the doctor that he had been arrested and was tightly handcuff that caused him pain to his right hand and arm. § 87(2)(b) also disclosed that he was hit in the head with a baton and kicked and shoved to the ground. (Board Review 07). § 87(2)(b) provided the investigation with photos of his injuries (Board Review 03).

§ 87(2)(b) provided the investigation with a § 87(2)(b) video he obtained from § 87(2)(g) which captured the beginning portion of the incident (Board Review 03) At 00:20 of the video, a marked police vehicle attempts to move through a crowd of protesters. The protesters are standing opposite of a group of officers located on the other side of the pedestrian crossing. § 87(2)(b) (§ 87(2)(b) heavy set male in a white t-shirt and black pants), is captured running in the opposite direction of the officers. There are approximately 15 officers captured, three of which appear to be in white shirts and the rest are in navy NYPD uniforms with riot gear. All of the officers appear to be white males. The video is too blurry and taken from too far away to capture any of the officer's distinct physical features. A white male officer dressed in riot gear pursues § 87(2)(b) on foot. The footage does not capture any further interaction between § 87(2)(b) and the officers.

§ 87(2)(b) (Board Review 06) provided a phone statement to the investigation in which he testified that he observed § 87(2)(b) walking up the road towards the line of officers. § 87(2)(b) engaged in a verbal "back and forth" with the officers. § 87(2)(b) was a part of a larger group of protesters that were saying things to the police. § 87(2)(b) could not hear what § 87(2)(b) or the officers said. After his initial observation, § 87(2)(b) turned away briefly from § 87(2)(b) and when he turned back, he observed an officer running towards § 87(2)(b) § 87(2)(b) ran in the opposite direction, out of § 87(2)(b)'s sight. Multiple officers followed the initial officer. § 87(2)(b) did not see what happened between § 87(2)(b) and the officers. § 87(2)(b) did not observe any further interaction between § 87(2)(b) or the officers.

On May 31, 2020, Sgt. Morrissey responded to § 87(2)(b) and prepared TRI # § 87(2)(g) which noted that PO Kavka issued § 87(2)(b) a summons for disorderly conduct and that the "identities of the uniformed members of service involved with use of force are unknown at this time...Subject cannot identify MOS who tackled him" (Board Review 08).

PO Kavka (Board Review 13) testified that he responded to requests for assistance at a protest located at Church Avenue and Nostrand Avenue together with Police Officer Claudia Pinzon (of the 61st Precinct) and Sgt. Goncharov. Upon arrival, two CRC officers opened the side door of PO Kavka's van and dropped off § 87(2)(b). The CRC officers immediately left the location. PO Kavka did not know who the officers were, and he did not see them again. PO Kavka could not provide physical descriptions of the officers because they were wearing face masks and had shields. PO Kavka did not observe how § 87(2)(b) was apprehended. Sgt. Goncharov attempted to locate the two CRC officers but was unsuccessful. § 87(2)(b) was then transported to the 72nd Precinct.

Sgt. Goncharov's (Board Review 14) testimony was generally consistent with PO Kavka's regarding their initial arrival at the location and initial interaction with the officers that dropped off § 87(2)(b). Sgt. Goncharov believed the officers were either from CRC or the Strategic Response Group. The officers were both male and wore helmets which obscured their faces. The officers stated that, as per their supervisor, § 87(2)(b) was under arrest for rioting, disorderly conduct, fighting, assaulting a police officer, and throwing bottles. The officers did not say who their supervisor was and immediately walked away after leaving § 87(2)(b) with Sgt. Goncharov and PO Kavka. Sgt. Goncharov attempted to follow the officers, but they disappeared into the crowd. Sgt. Goncharov attempted to locate the officers' supervisor to gather more information regarding why the individual had been taken into custody but was unable to locate them. Sgt. Goncharov did not witness officers apprehending § 87(2)(b). He did not see officers pursue § 87(2)(b) on foot nor did he see officers take § 87(2)(b) to the ground. Sgt. Goncharov did not see officers strike § 87(2)(b) with batons nor did he hear officers call the individual a "fat bitch" or use any other profanity towards the § 87(2)(b).

Although PO Prescott and PO Berndt's BWC recordings did not capture the incident with § 87(2)(b), the officers were interviewed for officer identification purposes as the BWC results revealed that they were in the vicinity of the incident. A CTS database search also confirmed that they were assigned to CRC.

PO Prescott (Board Review 15) testified that she and PO Berndt, as well as other CRC officers, were instructed by Sergeant Gerald Williams, assigned to CRC, to go Nostrand Avenue and Church Avenue. Upon arrival at the location, PO Prescott observed approximately 500-600 civilians, some of which were throwing fireworks, glass bottles, and glass cans at officers. Other supervisors were present at the location, but PO Prescott could not identify them. PO Prescott and the other officers spread out and went down different blocks. At one point a superior officer in a white shirt instructed PO Prescott to order the civilians to disperse. PO Prescott could not identify this officer. PO Prescott tried to stay with PO Berndt while on scene, but they were separated various times. While on scene, PO Prescott ordered individuals to get off the street and to go home. The civilians did not comply with any of the PO Prescott's orders. A superior officer handed PO Prescott an individual and ordered her to bring him back to the precinct and issue him a summons, which she did. PO Prescott did not receive any additional orders. This individual was not § 87(2)(b). PO Prescott did not see any CRC officers pursuing any individuals on foot nor did she see any officer's take any individuals to the ground. PO Prescott did not observe any officers strike § 87(2)(b) in the back of the head with a blunt object. PO Prescott was not made aware of any CRC officers taking individuals to the ground. PO Prescott denied making the alleged statements to § 87(2)(b) nor did she hear any other officers make those statements. During the interview, Inv. Azmitia showed PO Prescott a photo of § 87(2)(b). PO Prescott did not recognize § 87(2)(b) and stated that she did not see him on the night of the incident. Inv. Azmitia also showed PO Prescott the § 87(2)(b) video. PO Prescott did not recognize the scene depicted in the video. PO Prescott reiterated that she did not witness that interaction.

PO Berndt's (Board Review 16) testimony was generally consistent with PO Prescott's regarding their arrival on scene and his initial observations. PO Berndt could not recall which supervisor gave him the initial instruction to respond to Brooklyn. PO Berndt could not identify any supervisors that responded to the location with him and the other officers. PO Berndt was not given any instruction on what to do once he arrived at the location nor did he speak with any officers on scene. Once the officers started moving to push people back out of the street, PO Berndt followed. The officers were attempting to clear the street. PO Berndt did not have any physical contact with individuals at any point during his time on scene. At approximately 10:50 p.m., PO Berndt went to the 67th Precinct stationhouse to issue an unidentified individual a summons, however it was too busy. PO Berndt subsequently went to the 72nd Precinct where he remained for approximately one hour. PO Berndt was consistent with PO Prescott in saying that he did not commit the allegations against § 87(2)(b) nor did he see any other officers do so. After reviewing § 87(2)(b)'s photo and § 87(2)(b) video during the interview, PO Berndt also stated he did not recall seeing § 87(2)(b) at the location or interacting with him.

Sgt. Williams (Board Review 17) testified that he responded to the protest with 100 officers from "all over." Sgt. Williams could not recall the actions of the officers on scene. Sgt. Williams believed he interacted with Lieutenant James Marcantonatos and Lieutenant Norman Peterson, (both assigned to CRC) while at the location, but he could not recall the specifics of their interactions. Sgt. Williams formed a line with other officers in front of the crowd of protesters and ducked as objects were thrown at him. Sgt. Williams and other officers moved forward and ordered the protesters to get off the street and onto the sidewalk. The protesters did not comply with the directives. Sgt. Williams could not recall if he supervised or assisted in the apprehension or arrests of any individuals on scene. Sgt. Williams did not observe any officers affect an arrest while on scene. Sgt. Williams did not observe any officers engage in foot pursuits at the location. Throughout the night, officers from various commands asked Sgt. Williams which way to take prisoners. Sgt. Williams could not provide any additional information about these interactions. Sgt. Williams did not know which command the officers were from. Sgt. Williams was shown a photo of § 87(2)(b). Sgt. Williams did not specifically recall seeing § 87(2)(b) at the protest. Sgt. Williams could not recall if § 87(2)(b) was one of the prisoners the officers had when they approached and asked where to take him. Sgt. Williams did not take any individuals to the ground on the night of the incident, and he could not recall if he observed any CRC officers take any individuals to the ground. Sgt. Williams did not commit the allegations against § 87(2)(b) nor did he see any other officers do so. Sgt. Williams did not instruct any CRC officers to hand off prisoners to officers from the nearby Precincts.

Per Sgt. Williams' testimony, LT. Peterson was interviewed for officer identification purposes.

Lt. Peterson (Board Review 18) testified that Police Officer Benjamin Zonis, assigned to CRC, drove him Church Avenue and Bedford Avenue. Upon arrival, Lt. Peterson observed large, loud crowds of a few hundred civilians. Various times throughout the evening, officers would line up in the street and march down to disperse people in the area. Lt. Peterson could not recall if the officers did anything else to disperse the crowds. The civilians did not comply and continued to throw items at the officers, including trash and fireworks. Lt. Peterson could not recall if he issued any instructions to the officers on scene or if any lower ranking officers came to him seeking instructions on what to do with arrestees. Lt. Peterson could not recall if he observed officers have any physical altercations with individuals in the crowd. Lt. Peterson and other officers ran down the street after individuals in the crowd who threw objects, however, he did not have any physical interaction with any individuals while on scene. Lt. Peterson did not recognize § 87(2)(b) from his photo, and he did not recall observing § 87(2)(b) at the incident location. Lt. Peterson

denied committing allegations against § 87(2)(b) and he did not see any other officers do so. Lt. Peterson recalled being near Police Officer Michael Counihan, assigned to CRC, during a portion of his time on scene.

PO Zonis' (Board Review 19) testimony was consistent with Lt. Peterson's regarding his arrival at the location and the observations he made while on scene. PO Zonis did not recognize § 87(2)(b) from his photo and social media video, and he did not recall seeing any officers interact with § 87(2)(b) on scene. PO Zonis did not commit the allegations against § 87(2)(b) nor did he see any other officers do so. PO Zonis did not handcuff any individuals while at the location. PO Zonis believed that Lieutenant Chris Catechis (assigned to CRC), who was directing PO Zonis and the other officers, may have been one of the highest-ranking officers on scene. PO Zonis also observed Deputy Chief Joseph Gallucci of the Counter Terrorism Bureau on scene, but he did not interact with him at any point.

Per Lt. Peterson's testimony, PO Counihan was interviewed for officer identification purposes.

PO Counihan's (Board Review 20) testimony was consistent with PO Zonis' regarding his response to being shown the photo of § 87(2)(b) and the § 87(2)(b) video as well as the allegations listed above. PO Counihan could not recall who instructed him to go to the location or if any CRC supervisors were on scene.

Per PO Zonis' testimony, DC Gallucci was interviewed for officer identification purposes.

DC Gallucci (Board Review 21) testified that he oversaw approximately 100 CRC officers, all of whom were directed to the location. Upon arrival, DC Gallucci observed approximately 100 officers at the intersection of Nostrand Avenue and Church Avenue. These officers were from various commands, not just CRC. DC Gallucci spoke with former Chief of the Department Terence Monahan but could not recall what their conversation was about or if Chief Monahan gave him any orders. DC Gallucci ordered his officers to standby, to ensure they were properly equipped, and to be ready to respond if need be. DC Gallucci did not give any additional instructions to his officers. DC Gallucci did not recognize § 87(2)(b) from the photo and video, nor did he recall witnessing the incident depicted in the video. DC Gallucci did not commit the allegations against § 87(2)(b) nor did he see any other officers do so. DC Gallucci was unaware of officers handing off arrestees to other officers. DC Gallucci did not advise any officers to do this.

Lt. Marcantonatos and Lt. Catechis retired from NYPD. Therefore, the investigation was unable to interview them for officer identification purposes. On September 28, 2021, Principal Assistant Sinclair from CRC stated that Lt. Catechis retired from the NYPD in June of 2021, and Lt. Marcantonatos retired in April of 2021 (Board Review 22). A request for the reason and date of Lt. Catechis and Lt. Marcantonatos' separation from service was submitted to the Department Advocates Office and will be added to the case file upon receipt.

Per DC Gallucci's testimony, the investigation determined that Chief Monahan was the highest-ranking officer on scene, however, Chief Monahan retired from the NYPD on March 29, 2021 (Board Review 29). Given that Chief Monahan is no longer a member of service, the investigation was unable to interview Chief Monahan for officer identification purposes.

The investigation was unable to use the detail rosters, Roll Calls from Critical Response Command, the 67th and 72nd Precincts for officer identification purposes because § 87(2)(b) could not provide physical descriptions of the officers that used force against him (Board Review 09-12, 37). No supervisors were listed as being assigned to the protest in any of the above documents.

No additional CCRB complaints that shared the same date, location, and approximate time were filed.

A request for TARU footage for the date, time, and location of this incident was submitted but yielded negative results.

On October 1, 2021, Sergeant Nicholas Colavito, assigned to IAB, stated that the concurrent investigation § 87(2)(g) was closed in April of 2021. PO Kavka was the only officer identified during the investigation. The case was closed as “unsubstantiated” and “officer unknown.”

§ 87(2)(g)
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Allegation (D) Abuse of Authority: At the 72nd Precinct stationhouse, Police Officer Yaroslav Kavka did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) (Board Review 04, 05) testified that he told PO Kavka when they arrived at the 72nd Precinct stationhouse that he believed his wrist was broken, but PO Kavka did not acknowledge him.

PO Kavka (Board Review) could not recall if he asked § 87(2)(b) about any injuries he had sustained. PO Kavka could not recall if § 87(2)(b) made any statements about being in pain or having any injuries. PO Kavka did not observe any injuries to § 87(2)(b) and he did not recall if § 87(2)(b) informed him that his wrist was broken.

The 72nd Precinct Command Log notes that § 87(2)(b) s physical condition as normal and does not report any injuries for him (Board Review 27).

§ 87(2)(b) testified that he informed PO Kavka about his injured wrist. PO Kavka could not recall if § 87(2)(b) made any statements about being in pain. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been a party (Board Review 24).
- PO Kavka has been a member of service for one year and this is the first CCRB complaint to which he has been a subject.
- Sgt. Goncharov has been a member of service for 11 years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(b) [REDACTED]

[REDACTED] (g)
[REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming personal injury, emotional distress and damage, and punitive damages and seeking \$600,000 as redress (Board Review 25). § 87(2)(a) [REDACTED]

- § 87(2)(b) [REDACTED]
[REDACTED]

Squad: 3

| | | | |
|---------------|--------------|--------------------|------------|
| | Charis Jones | Inv. Charis Jones | 11/16/2021 |
| Investigator: | _____ | _____ | _____ |
| | Signature | Print Title & Name | Date |

| | | | |
|---------------|------------|--------------------|------------|
| | Olga Golub | IM Olga Golub | 11/17/2021 |
| Squad Leader: | _____ | _____ | _____ |
| | Signature | Print Title & Name | Date |

| | | | |
|-----------|-----------|--------------------|-------|
| | _____ | _____ | _____ |
| Reviewer: | _____ | _____ | _____ |
| | Signature | Print Title & Name | Date |